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Committee on the Elimination of Discrimination against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

MADAGASCAR*

* For the initial report submitted by the Government of Madagascar see CEDAW/C/5/Add.65.

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FIRST PART

1. The national context

1.1 The country

1. The island of Madagascar is situated to the east of the African continent between 12° and 26° latitude south and 43° and 51° longitude east. It is crossed by the Tropic of Capricorn in its southern part. Separated from the African continent by the 400 km-wide Mozambique Channel, Madagascar is surrounded by other islands, including Comoro Island 400 km to the north-west, the Seychelles 1,200 km to the north-east, Réunion 600 km and Mauritius 800 km to the east.

2. With an area of 587,041 km^2, Madagascar is the world's fourth largest island, after Greenland, New Guinea and Borneo. Its vast territory is long and hilly and enjoys a range of climates from tropical to temperate.

1.2 Population

3. The last socio-demographic survey conducted in 1984 put the island's population at 9,607,000. Using this figure as a basis for projection by the component method and assuming an average growth rate of 2.7 per cent, the projected population for 1999 is 14,180,000.

4. Madagascar therefore has an average population density of the order of 17 inhabitants per square kilometre, which makes it a sparsely populated country, especially when compared with other African countries such as Rwanda (211 inhabitants/square kilometre) or Burundi (218 inhabitants/square kilometre). The geographical distribution of the population is uneven.

5. Madagascar has a young population with a high fertility rate. The female population is in the majority (50.9 per cent of the population in 1984) and 61 per cent of the female population lives in rural conditions.

6. Malagasay women represent a considerable and ever-growing human potential, constituting, as they do, an increasing majority of the working-age population (50.8 per cent in 1975 rising to 51.7 per cent in 1984).

1.3 Structures of the present State

7. The institutions of the Democratic Republic of Madagascar are as follows:

- The President of the Republic
- The Supreme Revolutionary Council
- The National People's Assembly
- The Government
- The Military Committee for Development
- The Constitutional High Court.

The President of the Republic is elected by direct universal suffrage. He is the supreme organ of State power and is elected for seven years and may be re-elected. He implements State policy as laid down by the Charter of the Malagasy Socialist Revolution.

The Supreme Revolutionary Council assists the President of the Republic in elaborating, guiding and monitoring State policies. At present, the Council consists of 25 members in addition to the President and Prime Minister. The Councillors may be appointed by the President or selected by him from a list submitted by the National People's Assembly.

The National People's Assembly comprises 137 deputies elected for a five-year term by direct universal suffrage. The Assembly holds two regular sessions per year at the decision of the President of the Republic. The President, the Supreme Revolutionary Council and the Government are notified in advance of proposals for new legislation by the deputies.

The Government is accountable to the President of the Republic for the implementation of State policy. The Government comprises 21 Ministers in addition to the Prime Minister, who is appointed by the President of the Republic.

8. One of the biggest changes in domestic policy in the 1970s was the institution of the "fokonolona", the system of village communes or decentralized assemblies.

9. The decentralized communities are responsible for economic, social, cultural and municipal development at the local level. They have legal status and financial autonomy.

10. The fokonolona system has a four-tier structure, the same principles applying at each level:

- The "fokontany", which is the basic commune,
- The "firaisampokontany", made up of several fokontany,
- The fivondronampokontany", consisting of several firaisampokontany, and
- The "faritany", consisting of several fivondronampokontany.

11. There are now 13,374 fokontany, 1,252 firaisampokontany, 111 fivondronampokontany and 6 faritany (Antananarivo, Toamasina, Mahajanga, Fianarantsoa, Toliary and Antsiranana).

12. Each of these decentralized communities has a deliberative organ (People's Council or General Assembly) and an executive organ. The members of the deliberative organs are elected for five years (the last elections were in 1939) and those of the executive organs representing central authority also have a five-year term of office.

1.4 While present-day Malagasy society is patriarchical, it was once preceded by a matriarchical society in which women occupied a dominant position, as illustrated by the queens in power during the pre-colonial period.

13. Traces of this civilization are still to be found in the perception of women as a "link establishing continuity between the past and the future" because of their ability to procreate.

2. The national body established to monitor the status of women in society

14. In order to promote and ensure the personal development and social progress of women and thus to guarantee their enjoyment of fundamental rights and liberties on a basis of equality with men, Madagascar created in 1976 a Ministry of Population and Social Affairs, which includes the Directorate for Women's and Children's Affairs, a national body "responsible for monitoring the status of women in society".

2.1 The Directorate for Women's and Children's Affairs is responsible for implementing Government policy concerning the participation of women in the country's economic, social and political development.

Through its three services:

- The Service for the Promotion of Women
- The Service for Children's Affairs
- The Family Welfare Service,

The Directorate focuses its efforts on:

- Improving the general position of women,
- Improving the situation of children,
- Reintegrating the unemployed into the labour market by establishing special structures for women, social centres offering training to young women and girls and "pre-cooperatives" or workshops providing them with opportunities for gainful employment.

2.2 The Directorate for Women's and Children's Affairs is also responsible for coordinating the activities of organizations and associations that work towards improving women's conditions.

15. Mention should also be made of the 8th of March Women's Associations.

(a) Historical background

On the initiative of the Ministry of Population, Social Affairs, Youth and Sports, the celebration of International Women's Day on 8 March has afforded an opportunity for the women's associations of the decentralized communities to combine as a single association for the purpose of defining activities of benefit to women in Madagascar's decentralized localities.

These groups decided on the title "8th of March Women's Committee Association" to indicate that they had founded it by dedicating that day to women and that they intended to pool their efforts and work through their respective associations to promote the welfare of the entire population.

(b) The members of these 8th of March Associations come from a wide range of social and political backgrounds.

All occupations are represented: doctors, teachers, housewives, the liberal professions, etc. Members may also already belong to other organizations such as the Red Cross and religious or secular groups.

(c) Activities of the 8th of March Associations

These associations are involved in all areas of work to promote the status of women, including:

- Economic and social activities;
- Girls' education;
- Increasing awareness among groups of women to improve standards of health and hygiene; and
- The improvement of children's diets.

16. The Associations collaborate closely with the Directorate for Women's and Children's Affairs, of which they form a kind of regional branch. They are responsible for the local implementation of the programmes developed by the Directorate and work in concert with the Provincial Population Services.

17. In short, the activities of the women's organizations are coordinated by the Directorate for Women's and Children's Affairs.

SECOND PART

Article 2

18. Malagasy national legislation offers no definition of the term "discrimination".

19. However, article 12 of the Constitution of the Democratic Republic of Madagascar of 30 December 1975 includes a guarantee of equality as well as non-discrimination based on sex:

"The State ensures the equality of all citizens by:

- Guaranteeing the unity of the social order and the socialist judicial system, as well as the unity of legislation and regulation;

- Undertaking to remove any economic and social obstacles which limit equality between citizens, impede the development of individuals as human beings and prevent the effective participation of all workers in political, economic and social organization; and

- Proscribing all discrimination based on race, ethnic origin, religious belief, level of education, wealth or sex.

Article 3

20. The institutions responsible for ensuring due application of the principle of equality between men and women are the Administrative Chamber and the Constitutional High Court, to which women have recourse if they object to an administrative decision or a text which they feel is discriminatory.

21. Madagascar has not yet adopted any special provisional measures to establish equality between the sexes in practical terms.

22. Measures to protect maternity are considered under article 11.

1. Obstacles to female employment

23. Women's energies are sapped enormously and their opportunities for improving productivity are restricted by their family responsibilities and their daily duties as wives and mothers.

24. Inflexible mental attitudes are also detrimental to their employment prospects.

25. Fixed ideas about the aptitude of men or women for a particular occupation play a major role in the segmentation of jobs according to sex.

26. The exclusion of women from certain areas of employment is related to the nature of the work involved and is based on three main reasons:

- The unsuitability of women for hard work requiring physical effort;

- The unsuitability of women for managerial posts;

- The inappropriateness of women in predominantly male areas of employment.

27. Mine workings, for example, recruit men only, even for posts for which women would normally also apply (nurses, doctors, etc.).

28. In short, fears and apprehensions are the result of mental attitudes which belong to the distant past.

29. There are other factors at work in limiting women's opportunities in the vocational domain.

30. Inadequate information and training impede their entry into the job market. Lacking sufficient information on the precise needs of this market, women tend to opt for types of training and employment which do not always match the jobs on offer.

31. In order to mobilize women in national production it will therefore be necessary to apply a package of measures to remove the obstacles to their effective participation in economic activity.

2. The objective of the Directorate for Women's and Children's Affairs in the economic sphere is to upgrade women's productive role. The Directorate is promoting the income-generating employment of women in traditionally female occupations such as basket-making, weaving, braiding, embroidery and dress-making in order to help women to improve their standard of living.

32. Women are grouped in "pre-cooperatives", which are small production units based on mutualist principles.

33. The responsible Directorate has provided these units with dress-making workshops, equipment (such as sewing machines), tools and raw materials.

34. The Directorate also provides the pre-cooperatives with technical assistance in the form of training in management, accounting, marketing, as well as cutting out and sewing garments.

35. The Directorate also gives guidance to women who wish to start up businesses or have already done so, whether individually or in groups.

36. A project entitled "Training to promote female employment in urban and rural areas" will help to open up new opportunities for gainful employment for the various categories of women working in the informal sector.

3. These economic initiatives on the part the Directorate for Women's and Children's Affairs are backed up by educational initiatives aimed at informing the public about the national profile of women or their role in national development. The main aim of this initiative is to inform women about their rights and obligations and the different possibilities and opportunities open to them for broadening their sphere of action.

37. Such educational initiatives utilize all the media, whether television, radio, the press, films, conferences or special events of various kinds. They can be considered extremely successful in that large numbers of women are coming together to form non-governmental organizations working to improve the status of women.

38. This provision concerns the obligation placed upon the State to take whatever steps are necessary to penalize all forms of exploitation or maintenance of the debauchery or prostitution of women.

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39. Before going any further, it should be stressed that as far as morality is concerned, Malagasy substantive law supports the principle of sexual freedom with regard to adults and free human beings. In matters relating exclusively to sexual morality, the legislator does not consider judgement appropriate except where the aforementioned sexual freedom limits the sexual liberty of others or disturbs the public order. In such cases, the behaviour

or activity of the individual falls within the provisions of the law as it applies to offences of indecent assault, indecent exposure, rape, procuring and so forth.

40. This being the case, we shall look at the following in turn from the point of view of Malagasy substantive law:

- Prostitution;
- The exploitation of the debauchery of others (men and women);
- Obscene literature.

Article 6

1. Prostitution

1.1 Prostitution from the point of view of criminal law

41. From the point of view of criminal law, Malagasy substantive law neither incriminates nor encourages prostitution; it is not considered an infringement of the law and a person engaging in prostitution is considered to be in a de facto situation rather than de jure. In other words, there is no legislation concerning prostitution.

42. In an indirect way, however, through articles 354 and 356 of the Criminal Code and solely with respect to minors, a sexual partner may be prosecuted for abduction of minors. Article 354, for instance, provides that "Whosoever by deception or violence kidnaps a minor or causes a minor to be kidnapped, lured, abducted or removed from a location where he was placed by persons in authority or persons to whose authority he had been submitted or entrusted shall be liable to a term of imprisonment of from five to ten years ...".

1.2 Prostitution from the point view of civil law

43. From the point of view of civil law, a number of provisions attach penalties, either directly or indirectly, to specific intentions or attitudes deemed detrimental to public morality. These provisions include the following:

- Article 9 of Order No. 62-041 of 19 September 1962 concerning the general provisions of domestic law and international private law states that "there may be no derogation by specific Conventions of laws concerning public order and public morality".
- Articles 90 and 92 of Law No. 66-033 of 2 July 1966 concerning the general theory of obligations render null and void any legal act whose subject or cause conflicts with public order and public morality.

2. Exploitation or maintenance of the debauchery or prostitution of others

45. The exploitation or maintenance of the debauchery or prostitution of others is covered by articles 334, 334 bis and 335 of the Criminal Code contained in a section entitled "Offences against Public Morality".

46. Three separate offences emerge from an analysis of these articles:

- Procuring;
- Incitement of minors to debauchery;
- Keeping of a disorderly house.

2.1 Procuring

47. Under articles 334 and 334 bis all acts of procuring which may result from either the exploitation of the prostitution of another person or the exploitation of unremunerated debauchery are punishable criminal offences.

48. Analysis of article 334 of the Criminal Code reveals six types of offence considered to constitute procuring:

(1) Procuring by assisting or protecting the prostitution of another person or soliciting with a view to prostitution;

(2) Procuring by sharing the proceeds of prostitution;

(3) Procuring through life compansionship with a person habitually engaging in prostitution;

(4) Procuring by recruiting, inveigling or maintaining with a view to debauchery;

(5) Procuring by giving another person over to prostitution or debauchery;

(6) Procuring by acting as an intermediary (canvassing, written or oral mediation, soliciting, procuring, touting for custom, etc.).

49. Procuring is a criminal offence punishable by the following:

- Without aggravating circumstances: a term of imprisonment of from six months to two years and a fine of from 300,000 to 3,000,000 Malagasy francs;
- With aggravating circumstances (minor victim, crime accompanied by violence, etc.): a term of imprisonment of from two to five years and a fine of from 750,000 to 7,500,000 Malgasy francs.

2.2 Incitement of minors (under 21 years of age) to debauchery

50. The incitement of minors to debauchery is a criminal punishable offence under article 334 bis of the Criminal Code.

51. Under this article, criminal acts are those tending to incite, encourage or facilitate the debauchery or corruption of minors under 21 years of age, whether or not they have already been corrupted.

52. In such cases the offender is liable to the same penalties as those attaching to the crime of procuring (without aggravating circumstances).

2.3 Keeping of a disorderly house

53. Under article 335 of the Criminal Code penalties are attached to two separate offences:

2.3.1 The keeping of a brothel

It should be noted that this is deemed an offence whether or not the brothel is open to the public and whether the persons offered to clients live in the house itself or elsewhere.

2.3.2 The habitual presence of persons engaged in prostitution in specific places open to the public

All acts or attitudes of any owner, manager or person placed in charge of a hotel, boarding-house, bar, club or dance hall who does not oppose the habitual presence of one or more persons engaging in prostitution on the premises are deemed to be criminal, whether or not the prostitute is a client, tenant, servant, employee, etc.

In both cases the penalty is the same as that foreseen under article 334 bis, i.e. a term of imprisonment of from two to five years and a fine of from 750,000 to 7,500,000 Malagasy francs.

The law provides for various penalties to supplement this main penalty, including withdrawal of licence, closure of the establishment, etc.

3. Obscene documents

54. The dissemination of obscene documents such as pornographic magazines and erotic or pornographic films constitutes indecent behaviour, a criminal offence punishable under Order No. 75.015 of 7 August 1975 concerning the suspension of newspapers and periodicals whose publication tends to disturb public order, jeopardize national unity or offend public morality.

Article 7

1. Women have the right to vote in all elections on the same terms as men. They may also have their names registered in electoral rolls on the same terms as men.

2. Under Order No. 82-016 of 16 May 1982.

55. First article: All Malagasy citizens, irrespective of sex, have the right to vote, provided that they are at least eighteen years of age on the day of the poll and do not fall under the provisions of article 2 of the present order.

56. Irrespective of sex, all Malagasy citizens may stand for election provided they are at least twenty-one years of age on the closing date of applications to stand for election and are duly registered in the

electoral roll and provided their situation is in order with respect to their national service obligations.

57. The conditions of suffrage of women who have acquired Malagasy nationality by marriage are established by the Malagasy Nationality Code.

58. The conditions of suffrage of foreign naturalized Malagasy citizens are established by articles 37, 38 and 39 of the aforementioned Code.

59. Article 2: The following persons are deprived of the right to vote and may not, therefore, be registered on the electoral roll referred to by article 3 [?] below:

1. Individuals convicted of crimes;

2. Persons sentenced to a term of imprisonment, suspended or not, or awarded a fine, suspended or not, of over 50,000 Malagasy francs for a criminal offence with the exception, however, of verdicts pronounced in the following cases:

   (a) For crimes of negligence, except where the offender fails to report the crime;

   (b) For violations, other than those of the laws governing companies and enterprises, which are deemed criminal offences but are not, however, subject for the purposes of law enforcement to proof of bad faith on the part of their perpetrators and which are punishable by a fine only;

3. Persons for whom a warrant of arrest has been issued but not carried out;

4. Undischarged bankrupts;

5. Mentally insane persons under restraint and confined to an asylum;

6. Persons deprived of the right to vote by the judicial authorities under the relevant laws.

3. High public office and political posts occupied by women

- In the National People's Assembly, out of a total of 137 seats, 10 are occupied by women, i.e. 7.3 per cent.

- In the Constitutional High Court one seat is occupied by a woman.

- Within the Government, out of the 22 ministers there is one female minister in charge of the Ministry of Revolutionary Culture and Art and one female Secretary-General.

- In addition, a fairly large number of women occupy Director-General and Director posts within ministerial departments and in the private sector.

Article 8

60. There is no legal text forbidding Malagasy women or limiting their freedom to represent their Government at the international level and to participate in the work of international organizations.

Article 9

61. In Malagasy substantive law the question of nationality is covered by Order No. 60-064 of 22 July 1960.

62. It should first be noted that in matters of nationality Malagasy substantive law is predicated on the principles of liberty and equality of treatment between men and women with respect to the award, acqusition and loss of nationality. Thus, in certain individual cases, the prevalence of the nationality of one person over that of the other should be regarded as a means of avoiding any negative or positive dispute over nationality rather than as a discriminatory attitude.

1. The nationality of the married woman

1.1 A Malagasy woman marrying a man of foreign nationality

63. Two cases should be distinguished:

1.1.1 Loss of Malagasy nationality by declaration (loss of nationality by marriage)

Under paragraph 1 of article 47 of the Malagasy Nationality Code "a Malagasy woman marrying a foreigner retains Malagasy nationality provided that she does not expressly declare the wish to acquire her husband's nationality under the national law of his country".

A Malagasy woman marrying a foreigner may choose to retain her original nationality or to acquire that of her husband on the sole condition that the substantive law of his country so permits, the aim of this condition being to avoid statelessness.

Thus, marriage with a foreigner does not automatically imply loss of Malagasy nationality for a Malagasy woman.

1.1.2 Loss of Malagasy nationality ipso facto by marriage

Under article 47, paragraph 2, "she (the Malagasy woman) forfeits her Malagasy nationality if the couple establish their first domicile outside Madagascar after their marriage and if the wife automatically acquires her husband's nationality through marriage".

Once the conditions set forth in paragraph 2 of article 47 are satisfied, the Malagasy woman "automatically" - through imposition of the law - loses her Malagasy nationality through the compulsory acquisition of the nationality of her foreign husband.

1.2 Nationality of a foreign woman marrying a man of Malagasy nationality

64. Pursuant to article 22 of the Malagasy Nationality Code, "a foreign woman marrying a Malagasy only acquires his nationality if she expressly requests to do so or if, in conformity with the provisions of her national law, she automatically loses her nationality. A stateless woman marrying a Malagasy acquires Malagasy nationality".

1.3 Nationality of a married woman by virtue of her husband's acquisition, during the marriage, of a foreign nationality

65. A change in the husband's nationality during the marriage does not affect that of his wife, except if she also wishes to acquire his new nationality, in which case she has to follow the same procedures as her husband. In addition, it should be noted that the case foreseen by paragraph 2 of article 47 applies only if the husband was of foreign nationality when the marriage took place.

1.4 The right of the married woman to change her nationality

66. It should be pointed out that in Malagasy substantive law, pursuant to article 56 of Order No. 62-089 concerning marriage: "Marriage does not prejudice the legal capacity of the spouses ...".

67. Moreover, a married woman wishing to change her Malagasy nationality by acquiring a foreign nationality may do so without obtaining her husband's authorization in any form. The chapter entitled "Loss of Malagasy Nationality" does not contain any provision stipulating restrictive measures with respect to women. For instance, article 42 of the Malagasy Nationality Code provides in general terms as follows:

- "Malagasy citizens who have attained their majority shall lose their Malagasy nationality if they voluntarily acquire a foreign nationality".

68. In the same way, a married woman may obtain a passport or travel abroad without her husband's authorization.

2. Nationality of the children

69. The problem of nationality does not arise for the children of Malagasy parents, since they are automatically entitled to Malagasy nationality.

70. We are concerned here with children born to a Malagasy mother and a foreign father.

2.1 Nationality of children born of a legitimate marriage

71. In this case, the nationality of the children is based on that of the father.

(a) Principle:

Under article 9.1 of the Malagasy Nationality Code, "a legitimate child born to a Malagasy father has Malagasy nationality". It follows from this article that the child's nationality is determined by that of its father, so that if one turns the article around, it follows that a legitimate child born to a foreign father will be of foreign nationality even if its mother is Malagasy.

(b) Exception:

The nationality of a Malagasy mother determines the nationality of her legitimate children in exceptional circumstances only. Under article 9.2 (e), this is the case when a foreign father is either stateless or has no known nationality.

However, attention should be drawn to the opportunity offered by article 16 of the Malagasy National Code to under-age legitimate children born of a foreign father to claim the nationality of their Malagasy mother until they reach their majority.

2.2 Nationality of children born out of wedlock

72. In such cases the mother's nationality prevails over that of the father.

(a) Principle:

The nationality of children born out of wedlock is determined by the mother's nationality. Thus, under article 10.1, any child born out of wedlock is Malagasy if the mother is Malagasy.

(b) Exception:

The nationality of children born out of wedlock is determined by the father's nationality in exceptional circumstances only. In this respect, by turning around article 10.2 (e), under which "children born out of wedlock have Malagasy nationality when the mother is unknown or of unknown nationality", the nationality of a child born to an unknown mother or a mother of unknown nationality is foreign if the father is of foreign nationality.

Article 10

1. General characteristics of education in Madagascar

73. Madagascar has begun to establish a free compulsory education system by founding more public educational establishments under the aegis of a single ministry. Efforts have been focused on strengthening school structures as part of the programme to re-establish education (after 1972) on the principles of democratization, decentralization and the restoration of Malagasy national characteristics.

74. This policy was motivated by a desire to check the tendency towards elitism displayed by education before 1972, a tendency which prevented a large number of pupils from fully developing their abilities.

75. The efforts being made to enable pupils to develop their abilities freely and fully seem to be bearing fruit, despite the difficulties encountered.

2. School attendance of girls

76. The school attendance rate is 57.1 per cent in the case of girls and approximately 60.3 per cent in the case of boys. 1/

77. Furthermore, girls do not even make up half of the pupils attending school and their numbers decrease slightly as the level of education increases: the attendance rate of girls is 48.5 per cent 1/ at primary level, and decreases to 42.80 per cent at secondary level.

78. There has, none the less, been an appreciable incease in the numbers of girls attending school. The post-1972 school reforms have been largely responsible for this increase, which has, moreover, continued steadily in recent years.

79. The desire to send girls to school has also progressed over the years. This is partly due to the higher educational level of parents compared with that of previous generations.

3. Subjects in which girls tend to specialize

80. All branches of education are now open to girls.

81. However, their choices are directed towards subjects which they feel appropriate to their sex, irrespective of the labour market (see article 5 above).

82. In 1982, 76.8 per cent of pupils 2/ in the crafts section (carpet sewing, weaving, etc.) were girls. By way of illustration, the following table shows that in the sections "secretarial skills" and "management techniques" in technical lycées the attendance rate of girls is 84.25 per cent and 46.64 per cent respectively.

83. The same goes for the technical colleges where the "management techniques" and "dressmaking and tailoring" sections have the greatest number of female pupils with respective rates of 54 and 53.98 per cent.

84. In the other sections considered suitable for boys, the average proportion of female pupils is no more than 20 per cent. These are significant facts which are partly due to the way girls are brought up from a very early age to perform the so-called "female" household tasks.

1/ Data relating to the school year 1987/88 provided by the Ministry of Secondary and Basic Education.

2/ ILO-JASPA (Job and Skills Programme for Africa), Women's employment in Madagascar, 1985.

Table 8

ANALYSIS OF PUPILS IN TECHNICAL COLLEGES BY SEX AND BY SPECIALIZATION - SCHOOL YEAR 1987/88

Specialization	Technical lycées			Technical colleges		
	No. of pupils	No. of girls	Percentage of girls	No. of pupils	No. of girls	Percentage of girls
Automobile engineering	321	5	1.55	216	10	4.62
Metalwork	354	12	3.38	375	35	9.33
Woodwork	264	8	3.03	370	41	11.08
Buildings	298	60	20.13	207	63	30.43
Public works	205	53	25.85	140	39	27.86
Management techniques	1 507	703	46.64	300	162	54
Buildings/public works	107	9	8.41	370	95	25.68
Fashion design/dress-making/tailoring	0	0	0	389	210	53.98
Topography	59	10	16.95	0	0	0
Hydraulics	54	12	22.22	0	0	0
Architectural drawing	52	5	9.61	0	0	0
Mining and geology	106	19	17.92	0	0	0
Automated production processes	299	18	6.02	64	10	15.62
Electronics	128	19	14.84	0	0	0
Electrical engineering	426	62	3.40	0	0	0
Sheet metals	78	29	37.18	62	5	8.06
Secretarial skills	324	273	84.25	0	0	0
Printing	0	0	0	38	4	10.52
Agricultural techniques	112	47	41.96	46	10	21.74
Sanitary engineering	0	0	0	37	9	24.32
Total	4 694	1 344	28.63	2 614	693	26.54

Source: Ministry of Secondary and Basic Education.

4. Madagascar has ratified the UNESCO Convention on the Elimination of All Forms of Discrimination against Women in the Field of Education.

5. Under article 41 of the Constitution of the Democratic Republic of Madagascar

85. "Every citizen has the right to receive instruction. The State ensures that this right can be exercised through the organization of basic education."

86. "It organizes and supervises education. It ensures that all citizens have equal access to instruction, vocational training and culture without any constraints other than each individual's abilities."

87. "The State and the local communities cooperate in making education and instruction available to children."

Article 11

88. It is worth listing first of all the Conventions of the International Labour Organisation that have been ratified by Madagascar:

Convention No. 118 concerning equality of treatment of nationals and non-nationals in social security;

Convention No. 87 concerning freedom of association and protection of the right to organize;

Convention No. 81 concerning labour inspection in industry and commerce;

Convention No. 129 concerning labour inspection in agriculture;

Convention No. 29 concerning forced or compulsory labour;

Convention No. 13 concerning the use of white lead in paint;

Convention No. 127 concerning the maximum permissible weight to be carried by one worker;

Convention No. 117 concerning basic aims and standards of social policy;

Convention No. 111 concerning discrimination in respect of employment and occupation;

Convention No. 122 concerning employment policy;

Convention No. 100 concerning equal remuneration for men and women workers for work of equal value.

2. Women working in the formal sector

89. Article 21 of the Constitution states that "work is an honour and an imperative duty for all citizens, who must voluntarily accept the discipline it imposes".

90. "Demands will be made on each according to his ability; each will be remunerated according to the quality and quantity of his work".

91. This is supplemented by article 26: "Access to public office, to the professions and to posts and jobs is provided to all citizens without any constraints other than their capabilities and aptitudes".

92. Under these provisions, women are considered on equal terms with men with respect to employment.

93. Regarding recruitment, remuneration or rights such as promotion, retirement and other aspects of employment, there are no special provisions for women. However, provision is made for maternity leave and temporary leave.

(a) Maternity leave

For women working in the civil service, maternity leave amounts to a total of eight weeks which may not be taken concurrently with any other statutory leave (annual or sick leave).

These eight weeks are payable in full; maternity benefits (pre- and post-natal) are paid to the mother, and the administration contributes 80 per cent of the costs of confinement.

During the child's first 15 months, the mother is entitled to one hour's absence per day for nursing.

Female employees in the private sector are entitled to 14 weeks of maternity leave during which they are placed on half pay, which is payable in several blocks by the National Special Provident Fund. They are entitled to pre- and post-natal allowances, and also receive a lump-sum payment to reimburse their confinement costs.

During their maternity leave female employees have the right to retain their posts.

(b) Leave of absence

Female employees in the public sector are granted leave of absence in the following two cases and on request:

- To look after a child under five years of age or a child with a physical disability requiring continuous care;

- To follow her husband if he is obliged, for occupational reasons, to establish his residence a long way from his wife's workplace. Wives enjoy pension entitlements through their husbands and vice versa.

In law and in practice, Malagasy women enjoy equal rights with men to promotion, vocational training, retirement pensions and disability benefits.

94. According to a study conducted in 1988, the proportion of women in the active population is 46 per cent.

95. Analysed in terms of occupational categories, women account for:

- 8.2 per cent of senior management;

- 12 per cent of middle management;

- 15.9 per cent of employees;

- 31 per cent of skilled workers.

96. The proportion of women in posts requiring qualifications is low. This is due to the discrimination against girls in education and their consequent late entry into professional life.

97. Employment trends from 1983 to 1986 show a perceptible but none the less small increase in posts held by women; 10.7 per cent in 1983, 10.9 per cent in 1984 and 11.1 per cent in 1986.

Article 12

98. The following tables show:

- The distribution of public health-care structures in 1985 in Madagascar, and

- The trends in medical personnel from 1975 to 1985.

1. Numbers of public health-care structures - Madagascar 1985

Faritany	GH MH	MSH	OSH	MC	DU	HCS	NS	MS	PHCC
Antananarivo	2	2	14	26	17	103	32	8	162
Antsiranana	1	2	5	8	4	12	28	6	104
Fianarantsoa	1	2	13	19	6	110	19	28	212
Mahajanga	1	1	8	20	1	52	31	11	201
Toamasina	1	3	12	11	4	86	5	8	240
Toliary	1	3	6	19	6	55	28	14	187
Total	7	13	58	103	37	418	143	75	1 106

Source: Population and Health - Ministry of Health.

GH = General Hospital
MH = Main Hospital
MSH = Medical and Surgical Hospital
OSH = Ordinary Secondary Hospital
MC = Medical Centre
HCS = Health-Care Station
NS = Nurse's Station
MS = Maternity Station
PHCC = Primary Health-Care Centre

2. Evolution of different types of medical personnel per 100,000 inhabitants - Madagascar 1975-1985

Types of medical personnel	Year 1975	1980	1985
Doctors/100,000 inhabitants	10	12	15
Midwives/100,000 women from 15 to 49 years of age	60	71	77
Nurses/100,000 inhabitants	30	37	41
Dentists/100,000 inhabitants	1	1	1
Pharmacists/100,000 inhabitants	1	1	1
Health workers/100,000 inhabitants	-	11	14

Source: Population, health and family planning, Georges RAKOTO, September 1988.

Health care of mothers and children

99. These tables show that a large proportion of the health-care services are geared to mothers and children. In the first place, midwives are relatively numerous and, in the second, all the health-care structures provide the necessary services for the care of mothers and children.

100. In this connection, one of the Government's main aims in setting up primary health-care centres is to improve the health-care services available to mothers and children. The results obtained, however, have been far from fully satisfactory.

101. The number of women monitored through prenatal consultations and the number of births taking place in health-care establishments has indeed increased. Two factors, however, cannot be overlooked:

- Over half of these services are provided in urban centres, whereas the female population of Madagascar is mainly rural;

- The sickness and mortality rates of mothers and children continues to be relatively high in relation to the proportion of mothers and children using the health-care services.

102. It should be pointed out that the rapid expansion of the primary health-care centres (PHCS) coincided with the economic crisis undergone by Madagascar. This prevented the allocation of the necessary resources to the health-care sector, with the result that most of the PHCS were unable to start operating on schedule.

103. The imbalance between town and country with respect to the health care of mothers and children continues to be as great as ever.

104. Moreover, deficiencies have become apparent in the services provided by the centres which were able to open. The action undertaken has been subject to numerous constraints. Although it has not been possible to evaluate the quality of the services provided in terms of the health care of mothers and children, a number of facts can still give a general impression of the situation:

- The attendance of mothers at the prenatal units is far from satisfactory; they seldom attend more than two prenatal consultations and a large number of women do not come at all until after their sixth month of pregnancy;

- The concept of a risky pregnancy is still largely unfamiliar at the level of the basic structures;

- Institutional activities within the public health-care structures are minimal.

105. In short, the problems relating to the health care of mothers and children must be seen in the same context as the general problems of the health-care system in Madagascar.

106. Despite the intense efforts deployed, inadequate resources are preventing the implementation, administration and supervision of the programmes elaborated. The growth of the country's population is further exacerbating the problem by creating an ever greater burden on the mother and child health-care service.

Fertility

General fertility rate (GFR)

107. This index is very high throughout the country. In 1966 the GFR was estimated at 200 live births per 1,000 women of reproductive age, in 1975 and in 1984 at 171. 1/ This means that each year an average of two Malagasy women give birth out of 10 of child-bearing age.

Fertility rate by age

108. This rate makes it possible to study differences in behaviour with respect to fertility at different ages.

109. For statistical purposes, the child-bearing years are taken to be between 15 and 49. In Madagascar, however, surveys carried out in 1966 and 1975 recorded a fertility rate of approximately 5 per cent for the age group of from 10 to 14 years. Albeit low, this rate indicates extreme precociousness with respect to fertility.

1/ Sectoral Study of Fertility in Madagascar in Terms of Level, Structure, Trends and Factors - DGP/UDP, September 1988.

110. The maximum rate is recorded between the ages of 20 and 34 years. However, it remains fairly high after 35 years (see table below). The behaviour of Malagasy women is thus dictated by their fertility, which begins early and does not cease until interrupted by physiological conditions, i.e. the menopause. Consequently, the number of high-risk pregnancies in Madagascar is rather large due to the relatively high fertility rate of young girls and older women. Such births represent 23.4 per cent of the total number. 1/

FERTILITY RATE BY AGE

Age of women	1966	1975	1980
15-19 years	141	132	91
20-24 years	300	272	240
25-29 years	287	280	250
30-34 years	284	232	221
35-39 years	183	195	187
40-44 years	97	122	98
45-49 years	32	45	64
Total	143	132	138
14-49	200	192	170

Individual fertility or size of families

111. The individual fertility rate, a very important index of fertility, makes it possible to establish the average number of children a woman will have during her reproductive life.

112. In Madagascar, this index is very high. The average for the country as a whole is over six children. In 1966, the average was estimated at 6.6 births, and in 1975 and 1984 at 6.4 births, with different levels being recorded, however, in rural (6.7 in 1984) and urban areas (5.8 in 1984). 1/ In the capital, Antananarivo Renivohitra, the individual fertility rate was estimated at 4.2 children in 1986. 2/

1/ Sectoral Study of Fertility in Madagascar in terms of Level, Structure, Trends and Factors - DGP/UDP, September 1988.

2/ Study of fertility and reproductive behaviour in the Malagasy capital, MINSAN/WHO, 1986.

Trends in fertility

113. The facts reported in the previous section show that, as a whole, there has not been any radical change indicating a tendency for fertility to decline in Madagascar over the last 30 years.

114. Fertility in Madagascar seems to stay at a high level, with a slight tendency to decline, especially in its urban environment, reflecting the beginnings of a transition. This fertility is more determined by the physiological availability for prevention. Generally speaking, Malagasy women do not show the demographic behaviour of Malthusian populations, which requires that women voluntarily stop having children as soon as they have the desired number.

Article 13

1. Women working in the formal sector, whether married or single, are entitled to family allowances, housing allowances and other official benefits.

2. Women may apply for bank loans, mortgages and any other form of credit without their husband's permission.

3. There is no legal or cultural obstacle preventing women from participating fully in recreational activities, sports and the various aspects of cultural life.

Article 14

115. It should be noted first of all that:

- Women have the right to participate fully and with equal voting rights in popular organizations such as associations, cooperatives etc.;

- They have the right to land and water;

- They may own land.

116. Economically active Malagasy women are chiefly engaged in farming or crafts in rural areas.

1. Farming activities

117. Agriculture is a dominant sector within the national economy. A high percentage of the active female population (81 per cent) is rural.

118. From the technical point of view, farming operations are small and exhibit a low degree of mechanization.

119. Population growth is beginning to outstrip the land available for cultivation. Capital is scant and farm work is consequently labour-intensive. Any increase in production is therefore achieved by employing additional labour.

120. Women perform a variety of farming jobs from planting out and weeding to sorting seeds, sowing and harvesting. Heavy work such as ploughing is normally reserved for men.

121. Men and women are interchangeable, however, in some cases:

- Ploughing or harrowing are the woman's responsibility when her husband is absent, as is the case when the woman is head of the household;

- When the husband is away from home working as a seasonal migrant worker, the women have sole charge of the farming operation.

122. The woman derives only a very small income from farm production, since most of it is kept by the family for its own consumption. The small proportion which is sold provides the family with the financial income necessary for its survival in an increasingly salary-based economy.

123. The crafts in which women engage are predominantly weaving, basket-making, pottery and dress-making. These are an exclusively female province and the techniques used are traditional skills that are somewhat time- and energy-consuming, which is not always reflected in the price of the articles produced.

124. Furthermore, women engaged in crafts of this kind often have problems in obtaining adequate supplies of raw materials, and the markets are characterized by a superabundant supply and a somewhat inflexible demand.

Article 15

125. Men and women in Madagascar are treated on equal terms by courts.

126. Women may institute legal proceedings or be summoned to court in their own name.

127. Female lawyers may represent clients. Women may also sit on juries.

128. Women may testify in legal proceedings. They also have the same access as men to legal services. If they do not have the means to engage a lawyer they are entitled to legal aid.

129. "The law accords to all the right to a legal defence, and that right shall not be obstructed for want of sufficient means" (Article 42.7 of the Constitution).

130. Malagasy women have the right to conclude contracts on their own behalf (credit agreements, property and commercial transactions, etc.). They may execute a will or administer an estate.

131. They have the right to administer property without interference on the part of their husband and without his permission, whether or not the property was acquired during the marriage or belonged to the woman before the marriage or as a single woman.

Article 16

132. Conditions relating to marriage:

- It should be noted first of all that the marriageable age is 14 years for girls and 17 years for boys, whereas the age of majority for purposes of marriage is 18 years.

- The personal consent of the woman is necessary to validate the marriage.

  The consent of the parents is necessary for minor children of either sex, i.e. boys and girls under the age of 18 years.

133. Effects of marriage with respect to the spouses and children: obligations in terms of cohabitation, fidelity, aid and assistance.

(a) Cohabitation and fidelity obligations:

- Order No. 62-089 of 1 October 1962 concerning marriage states that the husband is head of the household in order to provide the family with some unity of direction, but that the wife should assist in providing guidance and material support for the family. If the husband is untrustworthy or incapable, the wife must act as head of the household.

- "Spouses are required to live together". The husband determines the common domicile. However, "in cases of disagreement between the spouses regarding the choice of a new common domicile, either spouse, at his or her own initiative, may bring the matter before a judge sitting in chambers" (this provision was adopted very recently).

- Adultery by either spouse is punishable, but adultery on the part of the wife is still deemed a criminal offence. Adultery by the husband is only punishable when he keeps a concubine in the marital home. The wife and her lover are liable to a term of imprisonment of from two to three years, whereas the husband and his lover are liable to a fine of 18,000 FMG to 360,000 FMG (Article 337 of the Criminal Code).

- Murder by the husband of his wife and her lover surprised in flagrante delicto in the marital home is considered excusable; it is punishable by a term of imprisonment of one to five years only (Article 324 of the Criminal Code).

- Polygamy is prohibited and punishable under the law (as is well known, there has recently been a fresh outbreak of cases of polygamy).

  Bigamy is punishable by a term of imprisonment of six months to three years (Article 340 of the Criminal Code).

- A woman may not be repudiated. She may institute divorce proceedings on the same basis as her husband: divorce legislation places the husband and the wife on the same basis of equality, the wife having full legal capacity.

- As to common expenses during the marriage, both spouses are entitled to take action justified by the costs incurred as a result of the marriage. Spouses have a mutual obligation to support and assist each other financially. If the husband does not contribute to the costs of the household, his wife may request the judge to authorize a "distraint order" on her husband's income.

(b) Obligations to provide help and assistance

- If the husband abandons his pregnant wife or his wife and children for longer than two months and if a legal decision is taken sentencing him to pay a maintenance allowance or the costs of the household, non-payment of such an allowance or such costs for a period of over two months is punishable by a term of imprisonment of from three months to one year.

- Where there are serious grounds, a woman may temporarily leave the marital home and exercise her "right to 'misintaka'".

134. The custom of "misintaka", a traditional institution which belongs to Malagasy customary law and is known to all the Malagasy tribes, favours the woman in particular. According to this custom, the woman is entitled to leave the marital home without her husband's permission if there is a dispute between the spouses involving either violence on the part of the husband or heated discussion. In such a case, the woman is obliged to return to her parents' home.

135. Before receiving his wife back into the marital home, the husband must undertake the "fampodiana", which consists in making a donation in an established amount (a sum of money or cattle) to his wife at her parents' home.

Effects of marriage on property

136. The husband administers the couple's common property and the wife retains the administration of her own property where it has been kept separate.

- The matrimonial regime under common law is based on equal sharing in accordance with a provision adopted in July 1990.

137. Under the regime of matrimonial property rights, spouses are offered a number of options:

- To opt for the system of sharing their property by dividing it into thirds (known as the "Kitay telo an-dàlana" regime): two thirds for the husband and one third for the wife.

  It should be noted that this was the former matrimonial regime under ordinary law.

- Or to adopt the regime of separation of property (in both cases it is sufficient to make a simple declaration to the relevant public officer).

- Or to draw up a contract establishing the rules governing their particular matrimonial regime.

138. If they do not choose any of these options, the couple are then placed under the ordinary law regime, which dictates equal sharing or "Zaramira".

- As a general rule, spouses do not inherit from each other, the surviving spouse being relegated to eighth place in the following list of heirs:

  "In the absence of a will or where succession is only partially by will, the heirs are placed in the following order without distinction of sex or primogeniture:

  - First category: Children
  - Second category: Grandchildren
  - Third category: Mother and father
  - Fourth category: Brothers and sisters
  - Fifth category: Children of brothers and sisters
  - Sixth category: Uncles and aunts
  - Seventh category: First cousins
  - Eighth category: Surviving spouse
  - Ninth category: The State

  (Article 16 of Law No. 68-012 of 4 July 1968 concerning successions, wills and donations.)

Women engaged in a union other than marriage

Women engaged in an unregistered common law union

139. This kind of union is considered socially legitimate if the provisions of ordinary law are respected when the union is established.

140. The only problem arising is essentially that of winding up the common property acquired during the union. In recent cases a solution has been found by deciding that the judge who presided over the common-law union should be responsible for establishing the applicable custom.

141. None the less, this custom will only continue to have compulsory force if it is not against the law or contrary to the new public order.

The concubine

142. There exist de facto partnerships which are formed outside the law and outside traditional customs.

143. Modern laws disregard this situation, but do not prohibit it.

144. In disputes concerning the disposal of property acquired by a concubine, the judge, precluded from reffering either to the law on matrimonial regimes or to traditional practices, must apply the theory of the de facto partnership: in other words, the property acquired during the partnership is divided into two (provided that the husband is not involved in an adulterous relationship).

145. Nowadays the law awards compensation to the concubine if she can prove personal, material and moral damage as a result of the death of her partner in a traffic accident.

GENERAL CONCLUSION

146. If women are fully to enjoy equality and the benefits of development and peace, they must not only have the opportunity and right to enter political life and to assist in decision-making, but also - and above all - they must:

- Be informed of their rights in order to be able to claim them; and

- Be effectively integrated into the process of national economic development in order to be able to exercise their rights in practice and thus achieve genuine equality.

1. Women's access to information

147. All Malagasy women must be able to read and write in order to qualify for access to the information that will help them and their families to improve their situation.

148. Providing women with information is one of the main concerns at the present time of the Directorate for Women's and Children's Affairs, a national body working in parallel with the Directorate for Public Education and Literacy (Ministry of Population, Social Affairs, Youth and Sports), which is currently conducting a literacy campaign.

2. Effective participation of women in national economic life

149. The Government's efforts to involve Malagasy women in the internal workings of the economy on the same basis as men are part of a national policy to promote economic development and recovery.

150. Examples of this are the economic projects that the Malagasy Government plans to implement through the Ministry of Population, Social Affairs, Youth and Sports (in particular, the Directorate for Women's and Children's Affairs) in conjunction with United Nations agencies, the main ones being those implemented in cooperation with the UNFPA (United Nations Fund for Population Activities), UNDP and UNICEF.

151. A practical strategy is still necessary, however, for implementing this Government policy aimed at enabling women to take a fully active rather than passive part in economic life. To this end a number of measures may be recommended:

2.1. General measures

Action to promote the effective participation by women in production and development could be strengthened by the following:

- Improving the basic data relating to the specific work performed by women in production, processing, preservation of foodstuffs and marketing. This could easily be achieved by:

  . Introducing appropriate technologies,

  . Instituting effective training programmes for groups of women (especially in rural areas) on the subject of basic agricultural techniques;

  . Introducing education and information programmes chiefly aimed at combating stereotyped sexist images.

- Integrating women into national planning in order to be able to gauge the socio-economic impact of development projects on the population as a whole and to determine the influence of women in the development sector in economic terms.

2.2. Specific measures

Access to credit

Women can be give easier access to credit by:

- Making the administrative facilities of credit institutions more flexible;

- Promoting savings associations or agricultural credit societies for women in order to facilitate the financing of investments beyond the means of individual women,

- Establishing more structures at all levels to deal with matters of financial management, savings and loans.

152. Finally, it should be stressed that equality between men and women is often a function of harmony within the family and enhancement of the family's financial situation.